

### REMARKS

The present application includes claims 1-34. Claims 1-12 were rejected. By this Amendment, the Applicant has added new claims 13-34. Claims 1-29 are pending in the present application. It is respectfully submitted that the pending claims define allowable subject matter.

Claims 1-3 were rejected under 35 U.S.C. § 101 as being directed to non-statutory subject matter. Claims 1-8 were rejected under 35 U.S.C. 103(a) as being unpatentable over U.S. Pat. No. 6,529,876 (Dart) in view of U.S. Pat. No. 5,970,482 (Pham) and in further view of U.S. Pat. App. Pub. 2002/0010664 (Rabideau). Claims 9-10 were rejected under 35 U.S.C. 103(a) as being unpatentable over Rabideau in view of Pham and in further view of U.S. Pat. App. Pub. 2002/0002476 (Freedman). Claim 11 was rejected as being unpatentable over Dart in view of Pham and in further view of Rabideau. Claim 12 was rejected under 35 U.S.C. 103(a) as being unpatentable over Rabideau in view of Pham and in further view of Freedman. The Applicants respectfully traverse the outstanding rejections for reasons set forth hereafter.

The Applicant now turns to the rejection of claims 1-3 under 35 U.S.C. § 101. The Examiner submits that the invention defined by claims 1-3 is merely an abstract idea that is not within the technological arts. While it is true that an abstract idea by itself does not satisfy the requirements of 35 U.S.C. § 101, an abstract idea when practically applied to produce a useful, concrete and tangible result does satisfy the statute. *See, e.g., In re Alappat*, 31 USPQ2d 1545, 1558 (Fed. Cir. 1994); *State Street Bank & Trust Co. v. Signature Financial Group Inc.*, 47 USPQ2d 1596, 1601-02 (Fed. Cir. 1998). The Examiner acknowledges that, in the present application, the inventions described in claims 1-3 produce various useful, concrete and tangible results, including

training personnel to audit the transactions of a business. Furthermore, claim 3 does fall within the technological arts by claiming “training the personnel to collect relevant data and enter data into a database.” Thus, the Applicant respectfully requests reconsideration of the rejection of claims 1-3 under 35 U.S.C. § 101.

The Applicant now turns to the rejection of claims 1-3 under 35 U.S.C. § 103(a) as being unpatentable over Dart. Dart relates to a method and computer program for use by health care providers to produce accurate billing coding for rendered care. Specifically, Dart relates to a computer program that performs an audit of coding prior to billing. (Dart Abstract). Further, Dart discloses “[r]ealtime audits are audits occurring upon the inputting of acquire data, into the computer, following the conclusion of data inputting pertinent to each component of the patient encounter.” Dart at 9:43-46. However, the Applicant respectfully submits that Dart does not teach nor suggest training personnel to “audit *at the location of the transaction*” or “collect data *at the location of the transaction*” as recited in claim 1 of the present application. Dart simply does not teach nor suggest performing any steps at the location of the transaction, and therefore Dart does not teach all the limitations of claim 1. Furthermore, Dart does not teach nor suggest the steps of choosing and training personnel to conduct the steps recited in claim 1, and therefore Dart does not teach all the limitations of claim 1. The Applicant respectfully submits that, at least for these reasons, claim 1, and claims 2 and 3 and new claims 13-16, which depend from claim 1, should be in condition for allowance.

With respect to the Examiner’s Official Notice on the limitations of choosing and training personnel to conduct the steps of claim 1, the Applicant respectfully traverses the Examiner’s

assertions of Official Notice as further set forth below. Alternatively, if the Examiner's assertions are based on the personal knowledge of the Examiner, then under MPEP § 2144.03(C) and 37 C.F.R. § 1.104(d)(2), the Examiner's assertions must be supported by an affidavit from the Examiner.

According to MPEP § 2144.03(A), Official Notice, without supporting references, should only be asserted when the subjects asserted to be common knowledge are "capable of instant and unquestionable demonstration as being well-known." That is, the subjects asserted must be of "notorious character" under MPEP § 2144.03(A).

However, the Applicant respectfully submits that the subject matter of the Examiner's assertion of Official Notice is not well-known in the art as evidenced by the searched and cited prior art. The Applicant respectfully submits that the Examiner has performed "a thorough search of the prior art," as part of the Examiner's obligation in examining the present application under MPEP § 904.02.

Additionally, the Applicant respectfully submits that the Examiner's searched and cited references found during the Examiner's thorough and detailed search of the prior art are indicative of the knowledge commonly held in the art. However, in the Examiner's thorough and detailed search of the relevant prior art, none of the prior art taught or suggested the subject matter of the Examiner's assertion of Official Notice. That is, the Examiner's thorough and detailed search of the prior art has failed to yield any mention of the teachings that the Examiner is asserting as widely known in the art. The Applicant respectfully submits that if the subject matter of the Examiner's assertion of Official Notice had been of "notorious character" and

“capable of instant and unquestionable demonstration as being well-known” under MPEP § 2144.03(A), then the subject matter would have appeared to the Examiner during the Examiner’s thorough and detailed search of the prior art.

If the Examiner had found any teaching of relevant subject matter, the Examiner would have been obligated to list the references teaching the relevant subject matter and make a rejection. Consequently, the Applicant respectfully submits that the prior art does not teach the subject matter of the Examiner’s assertion of Official Notice and respectfully traverses the Examiner’s assertion of Official Notice.

The Applicant specifically challenges the Examiner’s assertion of Official Notice with regard to choosing and training personnel to conduct the steps recited in claim 1. As stated above, the Applicant respectfully traverses the Examiner’s assertions of Official Notice and submits that the subject matter is not of such “notorious character” that it is “capable of instant and unquestionable demonstration as being well-known.” Under MPEP 2144.03, the Examiner is now obligated to provide a reference(s) in support of the assertion of Official Notice if the Examiner intends to maintain any rejection based on the assertion of Official Notice. Additionally, the Applicant respectfully requests the Examiner reconsider the assertion of Official Notice and provide to Applicant any basis for the Examiner’s assertion of Official Notice. If the Examiner has any questions, the Examiner is invited and encouraged to contact the Applicant at the number below for further discussion.

Furthermore, with respect to claim 2, Dart does not teach nor suggest “training the personnel to audit records by comparison to sources for documenting the business” or “training

the personnel to identify any irregular activity that is not documented” as recited in claim 2. Therefore, Dart does not teach all the limitations of claim 2. Thus, the Applicant respectfully submits that, at least for these reasons, claim 2 should be in condition for allowance.

Furthermore, with respect to claim 3, Dart does not teach nor suggest “training the personnel to evaluate the effectiveness of the audit of the business,” “training the personnel to design efficient auditing procedures for the business,” training the personnel to communicate with clients,” “training the personnel to conduct a retrospective analysis of the business,” or “training the personnel to collect relevant data and enter data into a database” as recited in claim 3. Therefore, Dart does not teach all the limitations of claim 3. Thus, the Applicant respectfully submits that, at least for these reasons, claim 3 should be in condition for allowance.

Additionally, with respect to new claims 13-16, Dart does not teach nor suggest “choosing at least one of a manager, an auditor, or a technologist as the personnel to audit at the location of the transaction,” “conducting transactions related to all services provided to a patient in a healthcare facility,” or “training the personnel to collect data records related to the care of a patient at a healthcare facility and audit the records as the records are created” or “training the personnel to collect data records related to the care of a patient at a healthcare facility that include records related to the patient’s medical condition and records that are not related to the patient’s medical condition.” Thus, the Applicant respectfully submits that, at least for these reasons, claims 13-16 should be in condition for allowance.

The Applicant now turns to the rejection of claims 4-8 under 35 U.S.C. § 103(a) as being unpatentable over Dart in view Pham and in further view of Rabideau. Pham relates to a

neuroagent approach used in an automated and unified data mining system to provide an explicitly predictive knowledge model. The neuroagent is a neural multi-agent approach based on macro-connectionism and comprises a double integration at the association and symbolic level as well as the knowledge model level. (Pham Abstract). Rabideau relates to a target audit method to provide a transaction-based detail of errors in an environment with a high volume of transactions. (Rabideau Abstract).

The Applicant respectfully submits that this combination of references would not include all the limitations recited in claims 4-8. None of these references teaches nor suggests “establishing a specification code for each function of the business,” “using the specification code to create an auditing chart,” “updating the specification code and the auditing chart,” or “auditing the pilot area with the updated specification code and the auditing chart” as recited in claim 4.

The Examiner cites Dart as teaching “establishing a specification code for each function of the business.” However, Dart discloses “inputting into the computer a code selecting one or a plurality of electronic templates specific to one or a plurality of types of patient encounters” and “outputting one or a plurality of Preliminary E&M [Evaluation and Management] codes” and “Final E&M Codes.” Dart at 13:30-14:10. The E&M coding is likewise related only to patient encounters and is designed to comply with statutory and regulatory requirements. Dart at 4:20-25. Dart does not teach nor suggest creating a specification code, rather Dart discloses using codes defined by regulations. Further, the codes disclosed in Dart are related only to patient encounters and are not created for each function of the business. Thus, Dart simply does not

teach, nor suggest, establishing a specification code for each function of a business as recited in claim 4. Likewise, neither Pham nor Rabideau teach or suggest this limitation.

The Examiner cites Pham as teaching “using the specification code to create an auditing chart.” However, Pham discloses “us[ing] the data mining tool to generate an Auditing profile.” Pham at 27:40-49. The data mining tool of Pham is not a specification code, nor is it created for each function of the business, and thus Pham simply does not teach, nor suggest, using a specification code, which has been made for each function of a business, to create an auditing chart as recited in claim 4. Likewise, neither Dart nor Rabideau teach or suggest this limitation.

The Examiner cites Rabideau as teaching “updating the specification code and the auditing chart” and “auditing the pilot area with the updated specification code and the auditing chart.” However, Rabideau discloses “access[ing] the workstation to copy the Possible Error Ticket,” constructing “Error Tickets,” and “modif[ying] the Possible Error Tickets to improve...the audit process.” Rabideau at [0057]. Thus, Rabideau discloses constructing an error ticket and modifying a possible error ticket. The tickets disclosed in Rabideau are not specification codes created for each function of the business, nor are they auditing charts, and thus Rabideau does not teach nor suggest updating a specification code and auditing chart as recited in claim 4. Furthermore, Rabideau does not teach nor suggest using an updated specification code and auditing chart to audit a pilot area as recited in claim 4. Likewise, neither Pham nor Dart teach or suggest these limitations.

Because none of Dart, Pham, and Rabideau disclose the above discussed limitations of claim 4, the Applicant respectfully submits that these references do not provide a basis for

rejecting claim 4, or claims 5-8 which depend from claim 4. Additionally, with respect to new claims 17-21, for at least these reasons, the combination of Dart, Pham, and Rabideau does not teach nor suggest all the limitations of new claims 17-21, which depend from claim 4.

Additionally, to establish a *prima facie* case of obviousness, there must be some suggestion or motivation to combine reference teachings. However, no reason has been shown why it would be obvious to selectively combine the target audit method of Rabideau with Dart and Pham to arrive at the claimed inventions of claims 4-8 and 17-21. Therefore, the Applicant respectfully submits that there would be no motivation to combine Rabideau with Dart and Pham to arrive at the claimed inventions of claims 4-8 and 17-21. For each of these reasons, the Applicant respectfully submits that claims 4-8 and 17-21 are non-obvious in view of these references.

The Applicant now turns to the rejection of claims 9 and 10 under 35 U.S.C. § 103(a) as being unpatentable over Rabideau in view of Pham and in further view of Freedman. Freedman relates to an automated insurance system and method for enabling a company to provide fully-integrated insurance coverage. (Freedman Abstract).

The Applicant respectfully submits that this combination of references would not include all the limitations recited in claims 9 and 10. None of these references teaches nor suggests “mitigating the errors with the case management tool” as recited in claim 9. Pham discloses creating a knowledge model and comparing the knowledge model to an evaluation based on quarterly data to determine whether the model needs to be renewed. Pham at 28:7-14. Thus, Pham teaches using the knowledge model to evaluate new data and then renewing the model if



necessary based on the new data; Pham does not teach, nor suggest, using the knowledge model to mitigate process errors associated with a business as recited in claim 9. Because none of Freedman, Pham, and Rabideau disclose the above discussed limitations of claim 9, the Applicant respectfully submits that these references do not provide a basis for rejecting claim 9, or, for at least these reasons, claim 10 and new claims 22-25, which depend from claim 9.

Furthermore, with respect to new claims 22-25, none of the references teach nor suggest “establishing a specification code for each function of the business,” “redefining the specification code,” or “processing data on self-management of current and future products or services with reimbursement schedules for each field of the business.” Thus, the Applicant respectfully submits that, at least for these reasons, claims 22-25 should be in condition for allowance.

Additionally, to establish a *prima facie* case of obviousness, there must be some suggestion or motivation to combine reference teachings. However, no reason has been shown why it would be obvious to selectively combine the automated insurance system of Freedman with Pham and Rabideau to arrive at the claimed inventions of claims 9, 10, and 22-25. Therefore, the Applicant respectfully submits that there would be no motivation to combine Freedman with Pham and Rabideau to arrive at the claimed inventions of claims 9, 10, and 22-25. For each of these reasons, the Applicant respectfully submits that claims 9, 10, and 22-25 are non-obvious in view of these references.

The Applicant now turns to the rejection of claim 11 under 35 U.S.C. § 103(a) as being unpatentable over Dart in view of Pham and in further view of Rabideau. The Applicant

respectfully submits that this combination of references would not include all the limitations recited in claim 11. None of these references teaches nor suggests “a specification code created by personnel for a function of the business” or “an auditing chart created with the specification code” as recited in claim 11. As discussed above with respect to claim 4, Dart discloses “inputting into the computer a code selecting one or a plurality of electronic templates specific to one or a plurality of types of patient encounters” and “outputting one or a plurality of Preliminary E&M [Evaluation and Management] codes” and “Final E&M Codes.” Dart at col. 13:30-14:10. The E&M codes of Dart are not specification codes that are created by personnel associated with the audit of the business for a function of the business. Likewise, the E&M codes are not an auditing chart created with specification codes, nor are the E&M codes used to create an auditing chart as recited in claim 11. Likewise, neither Pham nor Rabideau teach these limitations of claim 11. Because none of Dart, Pham, and Rabideau disclose the above discussed limitations of claim 11, the Applicant respectfully submits that these references do not provide a basis for rejecting claim 11, or claims 26-30 which depend from claim 11.

Additionally, to establish a *prima facie* case of obviousness, there must be some suggestion or motivation to combine reference teachings. However, no reason has been shown why it would be obvious to selectively combine these references to produce the claimed combination. Therefore, the Applicant respectfully submit that there would be no motivation to combine Dart, Pham, and Rabideau to arrive at the claimed inventions of claims 11 and 26-30. For each of these reasons, the Applicant respectfully submits that claims 11 and 26-30 are non-obvious in view of these references.

The Applicant now turns to the rejection of claim 12 under 35 U.S.C. § 103(a) as being unpatentable over Rabideau in view of Pham and in further view of Freedman. The Applicant respectfully submits that this combination of references would not include all the limitations recited in claim 12. None of these references teaches nor suggests “a case management tool created from a the flowchart wherein the case management tool manages current and future episodes of business services” as recited in claim 12. As discussed above with respect to claim 9, Pham discloses creating a knowledge model and comparing the knowledge model to an evaluation based on quarterly data to determine whether the model needs to be renewed. Pham at 28:7-14. Thus, Pham teaches using the knowledge model to evaluate new data and then renew the model if necessary, not to use the knowledge model to *manage current and future* episodes of the business services as recited in claim 12. Because none of Freedman, Pham, and Rabideau disclose the above discussed limitation of claim 12, the Applicant respectfully submits that these references do not provide a basis for rejecting claim 12. Likewise, because claims 31-34 depend from claim 12, the Applicant respectfully submits, for at least these reasons, that claims 31-34 are patentable over the cited references as well.

Additionally, to establish a *prima facie* case of obviousness, there must be some suggestion or motivation to combine reference teachings. However, no reason has been shown why it would be obvious to selectively combine these references to produce the claimed combination. Therefore, the Applicants respectfully submit that there would be no motivation to combine Freedman, Pham, and Rabideau to arrive at the claimed inventions of claims 12 and 31-

34. Thus, the Applicant respectfully submits that claims 12 and 31-34 are non-obvious in view of these references.

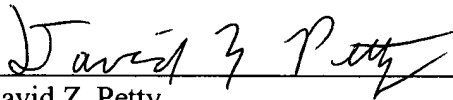
Should anything remain in order to place the present application in condition for allowance, the Examiner is kindly invited to contact the undersigned at the telephone number listed below. If the Examiner has any questions or the Applicants can be of any assistance, the Examiner is invited to contact the Applicants. The Commissioner is authorized to charge any necessary fees or credit any overpayment to Deposit Account 07-0845.

Respectfully submitted,

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